

Treaty between the United States of America and the Kiowa and Comanche Tribes of Indians; Concluded October 21, 1867; Ratification advised July 25, 1868; Proclaimed August 25, 1868.

ANDREW JOHNSON,

PRESIDENT OF THE UNITED STATES OF AMERICA,

Oct. 21, 1867.

TO ALL AND SINGULAR TO WHOM THESE PRESENTS SHALL COME, GREETING:

[NOTE BY THE DEPARTMENT OF STATE.—The words of this treaty which are put in brackets with an asterisk are written in the original with black pencil, the rest of the original treaty being written with black ink.]

WHEREAS a treaty was made and concluded at the Council Camp, on Medicine Lodge creek, seventy miles south of Fort Larned, in the State of Kansas, on the twenty-first day of October, in the year of our Lord one thousand eight hundred and sixty-seven, by and between N. G. Taylor, Brevet Major-General William S. Harney, Brevet Major-General C. C. Augur, Brevet Major-General Alfred H. Terry, John B. Sanborn, Samuel F. Tappan, and J. B. Henderson, commissioners, on the part of the United States, and Satank, (Sitting Bear,) Sa-Tan-Ta, (White Bear,) Parry-Wah-Say-Men, (Ten Bears,) and Tep-Pe-Navon, (Painted Lips,) and other chiefs and headmen of the Kiowa and Comanche tribes of Indians, on the part of said Indians, and duly authorized thereto by them, which treaty is in the words and figures following, to wit: —

Preamble.

Articles of a treaty and agreement made and entered into at the Council Camp, on Medicine Lodge creek, seventy miles south of Fort Larned, in the State of Kansas, on the twenty-first day of October, one thousand eight hundred and sixty-seven, by and between the United States of America, represented by its commissioners duly appointed thereto, to wit, Nathaniel G. Taylor, William S. Harney, C. C. Augur, Alfred S. [H.] Terry, John B. Sanborn, Samuel F. Tappan, and J. B. Henderson, of the one part, and the confederated tribes of Kiowa and Comanche Indians, represented by their chiefs and headmen, duly authorized and empowered to act for the body of the people of said tribes, (the names of said chiefs and headmen being hereto subscribed,) of the other part, witness:

Contracting parties.

ARTICLE I. From this day forward all war between the parties to this agreement shall forever cease.

War to cease.

The government of the United States desires peace, and its honor is here pledged to keep it. The Indians desire peace, and they now pledge their honor to maintain it. If bad men among the whites, or among other people subject to the authority of the United States, shall commit any wrong upon the person or property of the Indians, the United States will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs at Washington city, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also reimburse the injured person for the loss sustained.

Peace to be kept.

Offenders against the Indians to be arrested, &c.

If bad men among the Indians shall commit a wrong or depredation upon the person or property of any one, white, black or Indians, subject to the authority of the United States and at peace therewith, the tribes herein named solemnly agree that they will, on proof made to their agent

Wrongdoers against the whites to be punished.

Damages.

and notice by him, deliver up the wrongdoer to the United States, to be tried and punished according to its laws, and in case they wilfully refuse so to do, the person injured shall be reimbursed for his loss from the annuities or other moneys due or to become due to them under this or other treaties made with the United States. And the President, on advising with the Commissioner of Indian Affairs shall prescribe such rules and regulations for ascertaining damages under the provisions of this article as, in his judgment, may be proper; but no such damages shall be adjusted and paid until thoroughly examined and passed upon by the Commissioner of Indian Affairs and the Secretary of the Interior; and no one sustaining loss, while violating or because of his violating, the provisions of this treaty or the laws of the United States, shall be reimbursed therefor.

Reservation.

ARTICLE II. The United States agrees that [the *] following district of country, to wit: commencing at a point where the Washita river crosses the 98th meridian, west from Greenwich; thence up the Washita river, in the middle of the main channel thereof, to a point thirty miles, by river, west of Fort Cobb, as now established; thence, due west to the north fork of Red river, provided said line strikes said river east of the one hundredth meridian of west longitude; if not, then only to said meridian line, and thence south, on said meridian line, to the said north fork of Red river; thence down said north fork, in the middle of the main channel thereof, from the point where it may be first intersected by the lines above described, to the main Red river; thence down said river, in the middle of the main channel thereof to its intersection with the ninety-eighth meridian of longitude west from Greenwich; thence north, on said meridian line, to the place of beginning, shall be and the same is hereby set apart for the absolute and undisturbed use and occupation of the tribes herein named, and for such other friendly tribes or individual Indians, as, from time to time, they may be willing [with the consent of the United States *] to admit among them; and the United States now solemnly agrees that no persons except those herein authorized so to do and except such officers, agents, and employés of the government as may be authorized to enter upon Indian reservation in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article, or in such territory as may be added to this reservation, for the use of said Indians.

Certain persons not to enter or reside thereon.

Additional arable land to be added, if, &c.

Buildings on reservation.

ARTICLE III. If it should appear from actual survey or other satisfactory examination of said tract of land, that it contains less than one hundred and sixty acres of tillable land, for each person, who at the time may be authorized to reside on it under the provisions of this treaty, and a very considerable number of such persons shall be disposed to commence cultivating the soil as farmers, the United States agrees to set apart for the use of said Indians, as herein provided, such additional quantity of arable land adjoining to said reservation, or as near the same as it can be obtained, as may be required to provide the necessary amount.

ARTICLE IV. The United States agrees at its own proper expense to construct at some place, near the centre of said reservation, where timber and water may be convenient, the following buildings, to wit: A warehouse or store-room for the use of the agent, in storing goods belonging to the Indians, to cost not exceeding fifteen hundred dollars; an agency building for the residence of the agent, to cost not exceeding three thousand dollars; a residence for the physician, to cost not more than three thousand dollars; and five other buildings, for a carpenter, farmer, blacksmith, miller, and engineer, each to cost not exceeding two thousand dollars; also a school-house or mission building, so soon as a sufficient number of children can be induced by the agent to attend school, which shall not cost exceeding five thousand dollars.

The United States agrees further to cause to be erected on said reserva-

tion, near the other buildings herein authorized, a good steam circular saw mill, with a grist mill and shingle machine attached; the same to cost not exceeding eight thousand dollars.

ARTICLE V. The United States agrees that the agent for the said Indians in the future shall make his home at the agency building; that he shall reside among them, and keep an office open at all times, for the purpose of prompt and diligent inquiry into such matters of complaint by and against the Indians as may be presented for investigation under the provisions of their treaty stipulations, as also for the faithful discharge of other duties enjoined on him by law. In all cases of depredation on person or property, he shall cause the evidence to be taken in writing and forwarded, together with his findings to the Commissioner of Indian Affairs, whose decision, subject to the revision of the Secretary of the Interior, shall be binding on the parties to this treaty.

Agent's residence, office and duties.

ARTICLE VI. If any individual belonging to said tribes of Indians, or legally incorporated with them, being the head of a family, shall desire to commence farming, he shall have the privilege to select, in the presence and with the assistance of the agent then in charge, a tract of land within said reservation, not exceeding three hundred and twenty acres in extent, which tract, when so selected, certified, and recorded in the "Land Book" as herein directed, shall cease to be held in common, but the same may be occupied and held in the exclusive possession of the person selecting it, and of his family so long as he or they may continue to cultivate it. Any person over eighteen years of age, not being the head of a family, may in like manner select and cause to be certified to him or her, for purposes of cultivation, a quantity of land not exceeding eighty acres in extent, and thereupon, be entitled to the exclusive possession of the same as above directed. For each tract of land so selected, a certificate, containing a description thereof and the name of the person selecting it, with a certificate indorsed thereon that the same has been recorded, shall be delivered to the party entitled to it, by the agent, after the same shall have been recorded by him in a book to be kept in his office, subject to inspection, which said book shall be known as the "Kiowa and Comanche Land Book." The President may, at any time, order a survey of the reservation, and, when so surveyed, Congress shall provide for protecting the rights of settlers, in their improvements, and may fix the character of the title held by each. The United States may pass such laws, on the subject of alienation and descent of property and on all subjects connected with the government of the said Indians on said reservations, and the internal police thereof, as may be thought proper.

Heads of families may select land for farming.

Others may select land for for cultivation.

Surveys.

Alienation and descent of property.

Education.

Children to attend school.

School-houses and teachers.

Seeds and agricultural implements to be furnished to whom.

ARTICLE VII. In order to insure the civilization of the tribes, entering into this treaty, the necessity of education is admitted, especially by such of them as are or may be settled on said agricultural reservations; and they therefore pledge themselves to compel their children, male and female, between the ages of six and sixteen years, to attend school; and it is hereby made the duty of the agent for said Indians to see that this stipulation is strictly complied with; and the United States agrees that for every thirty children between said ages, who can be induced or compelled to attend school, a house shall be provided, and a teacher, competent to teach the elementary branches of an English education, shall be furnished, who will reside among said Indians and faithfully discharge his or her duties as a teacher. The provisions of this article to continue for not less than twenty years.

ARTICLE VIII. When the head of a family or lodge shall have selected lands and received his certificate as above directed, and the agent shall be satisfied that he intends in good faith to commence cultivating the soil for a living, he shall be entitled to receive seeds and agricultural implements for the first year not exceeding in value one hundred dollars, and for each succeeding year he shall continue to farm for a period of

Instruction in farming.	three years more, he shall be entitled to receive seeds and implements as aforesaid not exceeding in value twenty-five dollars. And it is further stipulated that such persons as commence farming shall receive instruction from the farmer herein provided for, and whenever more than one hundred persons shall enter upon the cultivation of the soil a second blacksmith shall be provided, together with such iron, steel, and other material, as may be needed.
Blacksmith.	
Physician, farmer, &c. may be withdrawn.	ARTICLE IX. At any time after ten years from the making of this treaty the United States shall have the privilege of withdrawing the physician, farmer, blacksmiths, carpenter, engineer, and miller herein provided for; but, in case of such withdrawal, an additional sum thereafter of ten thousand dollars per annum shall be devoted to the education of said Indians, and the Commissioner of Indian Affairs shall, upon careful inquiry into the condition of said Indians, make such rules and regulations for the expenditure of said sum as will best promote the educational and moral improvement of said tribes.
Additional appropriation in such case.	
Delivery of goods in lieu of annuities.	ARTICLE X. In lieu of all sums of money or other annuities provided to be paid to the Indians, herein named, under the treaty of October eighteenth, one thousand eight hundred and sixty-five, made at the mouth of the "Little Arkansas," and under all treaties made previous thereto, the United States agrees to deliver at the agency-house on the reservation herein named, on the fifteenth day of October of each year, for thirty years, the following articles, to wit:—
Clothing.	For each male person over fourteen years of age, a suit of good substantial woollen clothing, consisting of coat, pantaloons, flannel shirt, hat, and a pair of home-made socks. For each female over twelve years of age, a flannel skirt, or the goods necessary to make it, a pair of woollen hose, and twelve yards of calico, and twelve yards of "domestic."
Census.	For the boys and girls under the ages named, such flannel and cotton goods as may be needed, to make each a suit as aforesaid, together with a pair of woolen hose for each; and in order that the Commissioner of Indian Affairs may be able to estimate properly for the articles herein named, it shall be the duty of the agent, each year, to forward him a full and exact census of the Indians on which the estimates from year to year can be based; and, in addition to the clothing herein named, the sum of twenty-five thousand dollars shall be annually appropriated for a period of thirty years, to be used by the Secretary of the Interior in the purchase of such articles, upon the recommendation of the Commissioner of Indian Affairs, as from time to time the condition and necessities of the Indians may indicate to be proper; and if at any time within the thirty years it shall appear that the amount of money needed for clothing under this article can be appropriated to better uses for the tribes herein named, Congress may by law change the appropriation to other purposes, but in no event shall the amount of this appropriation be withdrawn or discontinued for the period named; and the President shall, annually, detail an officer of the army to be present and attest the delivery of all the goods herein named to the Indians, and he shall inspect and report on the quantity and quality of the goods and the manner of their delivery.
Other necessary articles.	
Army officer to attend the delivery.	ARTICLE XI. In consideration of the advantages and benefits conferred by this treaty and the many pledges of friendship by the United States, the tribes who are parties to this agreement hereby stipulate that they will relinquish all right to occupy permanently the territory outside of their reservation, as herein defined, but they yet reserve the right to hunt on any lands south of the Arkansas [river, *] so long as the buffalo may range thereon in such numbers as to justify the chase, [and no white settlements shall be permitted on any part of the lands contained in the old reservation as defined by the treaty made between the United States and the Cheyenne, Arapahoe, and Apache tribes of Indians at the mouth of the Little Arkansas, under date of October fourteenth, one thousand eight
Right to occupy territory outside of reservation surrendered.	
Right to hunt reserved.	

hundred and sixty-five, within three years from this date; *] and they, [the said tribes,*] further expressly agree —

1st. That they will withdraw all opposition to the construction of the railroad now being built on the Smoky Hill river, whether it be built to Colorado or New Mexico.

2d. That they will permit the peaceable construction of any railroad not passing over their reservation as herein defined.

3d. That they will not attack any persons at home, nor travelling, nor molest or disturb any wagon-trains, coaches, mules, or cattle belonging to the people of the United States, or to persons friendly therewith.

4th. They will never capture or carry off from the settlements white women and children.

5th. They will never kill nor scalp white men nor attempt to do them harm.

6th. They withdraw all pretence of opposition to the construction of the railroad now being built along the Platte river and westward to the Pacific ocean; and they will not, in future, object to the construction of railroads, wagon roads, mail stations, or other works of utility or necessity which may be ordered or permitted by the laws of the United States. But should such roads or other works be constructed on the lands of their reservation, the government will pay the tribes whatever amount of damage may be assessed by three disinterested commissioners, to be appointed by the President for that purpose; one of said commissioners to be a chief or headman of the tribes.

7th. They agree to withdraw all opposition to the military posts now established in the western territories.

ARTICLE XII. No treaty for the cession of any portion or part of the reservation herein described, which may be held in common, shall be of any validity or force as against the said Indians, unless executed and signed by at least three fourths of all the adult male Indians occupying the same, and no cession by the tribe shall be understood or construed in such manner as to deprive, without his consent, any individual member of the tribe of his rights to any tract of land selected by him as provided in Article III. [VI.] of this treaty.

ARTICLE XIII. The Indian agent, in employing a farmer, blacksmith, miller, and other employés herein provided for, qualifications being equal, shall give the preference to Indians.

ARTICLE XIV. The United States hereby agrees to furnish annually to the Indians the physician, teachers, carpenter, miller, engineer, farmer, and blacksmiths, as herein contemplated, and that such appropriations shall be made from time to time, on the estimates of the Secretary of the Interior, as will be sufficient to employ such persons.

ARTICLE XV. It is agreed that the sum of seven hundred and fifty dollars be appropriated for the purpose of building a dwelling-house on the reservation for "Tosh-e-wa," (or the Silver Brooch,) the Comanche chief who has already commenced farming on the said reservation. And the sum of five hundred dollars annually, for three years from date, shall be expended in presents to the ten persons of said tribes who in the judgment of the agent may grow the most valuable crops for the period named.

ARTICLE XVI. The tribes herein named agree, when the agency house and other buildings shall be constructed on the reservation named, they will make said reservation their permanent home and they will make no permanent settlement elsewhere, but they shall have the right to hunt on the lands south of the Arkansas river, formerly called theirs, in the same manner, subject to the modifications named in this treaty, as agreed on by the treaty of the Little Arkansas, concluded the eighteenth day of October, one thousand eight hundred and sixty-five.

Agreements as
to railroads;

emigrants and
emigrant travel-
lers.

Women and
children.

Pacific rail-
road, wagon
roads, &c.

Damages for
crossing these
reservations

Military posts.

No treaty for
cession of reser-
vation to be
valid unless, &c.

In employing
farmer, &c.
preference to be
given to the In-
dians, if, &c.

United States
to furnish physi-
cians, teachers,
&c.

House for
Tosh-e-wa.

Presents for
best crops.

Reservation
to be permanent
home of tribes.

In testimony of which, we have hereunto set our hands and seals on the day and year aforesaid.

N. G. TAYLOR,	[SEAL.]
<i>President of Indian Com'n.</i>	
WM. S. HARNEY,	[SEAL.]
<i>Bvt. Majr. Gen.</i>	
C. C. AUGUR,	[SEAL.]
<i>Bvt. Majr. Gen.</i>	
ALFRED H. TERRY,	[SEAL.]
<i>Brig. and Bvt. Majr. Gen.</i>	
JOHN B. SANBORN,	[SEAL.]
SAMUEL F. TAPPAN,	[SEAL.]
J. B. HENDERSON.	[SEAL.]

Attest: ASHTON S. H. WHITE,
Secretary.

Kioways.

SATANK, or Sitting Bear,	his x mark.	[SEAL.]
SA-TAN-TA, or White Bear,	his x mark.	[SEAL.]
WA-TOH-KONK, or Black Eagle,	his x mark.	[SEAL.]
TON-A-EN-KO, or Kicking Eagle,	his x mark.	[SEAL.]
FISH-E-MORE, or Stinking Saddle,	his x mark.	[SEAL.]
MA-YE-TIN, or Woman's Heart,	his x mark.	[SEAL.]
SA-TIM-GEAR, or Stumbling Bear,	his x mark.	[SEAL.]
SIT-PAR-GA, or One Bear,	his x mark.	[SEAL.]
CORBEAU, or The Crow,	his x mark.	[SEAL.]
SA-TA-MORE, or Bear Lying Down.	his x mark.	[SEAL.]

Comanches.

PARRY-WAH-SAY-MEN, or Ten Bears,	his x mark.	[SEAL.]
TEP-PE-NAVON, or Painted Lips,	his x mark.	[SEAL.]
TO-SA-IN, or Silver Brooch,	his x mark.	[SEAL.]
CEAR-CHI-NEKA, or Standing Feather,	his x mark.	[SEAL.]
HO-WE-AR, or Gap in the Woods,	his x mark.	[SEAL.]
TIR-HA-YAH-GUAHIP, or Horse's Back,	his x mark.	[SEAL.]
ES-A-NANACA, or Wolf's Name,	his x mark.	[SEAL.]
AH-TE-ES-TA, or Little Horn,	his x mark.	[SEAL.]
POOH-YAH-TO-YEH-BE, or Iron Mountain,	his x mark.	[SEAL.]
SAD-DY-YO, or Dog Fat,	his x mark.	[SEAL.]

Attest:

JAS. A. HARDIE,
Inspector Genl. U. S. Army.

SAM'L S. SMOOT,
U. S. Surveyor.

PHILIP McCUSKER,
Interpreter.

J. H. LEAVENWORTH,
U. S. In. Agt.

THOS. MURPHY,
Supt. Ind. Affairs.

HENRY STANLEY,
Correspondent.

A. A. TAYLOR,
Assistant Secretary.

WM. FAYEL,
Correspondent.

JAMES O. TAYLOR,
Artist.
GEO. B. WILLIS,
Phonographer.
C. W. WHITRAKER,
Trader

And whereas, the said treaty having been submitted to the Senate of the United States for its constitutional action thereon, the Senate did, on the twenty-fifth day of July, one thousand eight hundred and sixty-eight, advise and consent to the ratification of the same, by a resolution in the words and figures following, to wit :— Ratification.

IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES, }
July 25, 1868. }

Resolved, (two thirds of the senators present concurring,) That the Senate advise and consent to the ratification of the articles of a treaty and agreement made and entered into at the council camp on Medicine Lodge creek, in the State of Kansas, between the United States and the confederated tribes of Kiowa and Comanche Indians.

Attest:

GEO. C. GORHAM,
Secretary.

Now, therefore, be it known that I, ANDREW JOHNSON, President of the United States of America, do, in pursuance of the advice and consent of the Senate, as expressed in its resolution of the twenty-fifth of July, one thousand eight hundred and sixty-eight, accept, ratify, and confirm the said treaty.

In testimony whereof I have hereto signed my name, and caused the seal of the United States to be affixed.

Done at the city of Washington, this twenty-fifth day of August, in [SEAL.] the year of our Lord one thousand eight hundred and sixty-eight, and of the Independence of the United States of America the ninety-third.

By the President:

ANDREW JOHNSON.

WILLIAM H. SEWARD,
Secretary of State.

Proclamation.